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SUPPLEMENT.

RETIREMENT OF SIR LIONEL LEACH, CHIEF JUSTICE.

Sir Lionel Leach has laid down the reins of his exalted office of Chief Justice of this Province which he has filled with considerable distinction for well-nigh ten years. The outstanding feature that has characterised the period during which he has presided over the administration of Justice in this Province is his vigorous and earnest attempt to minimise the proverbial Law's delays and to maintain and enhance the respect for the Judiciary and law and order in general.

In deciding questions of law, Sir Lionel Leach has found himself quite at home in every branch of the law, be it Hindu Law, or the Law relating to Procedure or Income-tax or Limitation or any other. He has never fought shy of laying down the law authoritatively whenever there was any doubt about it. His judgments have been uniformly sound and invariably contained clear and neat exposition of the law concerned. The great pains he took in ascertaining the facts of a case before applying the law to those facts, enabled him very often to dispense justice on the concrete facts rather than in its abstract aspect. His enormous fund of native commensense stood him in good stead in finding out the truth behind a series of the most complicated transactions. The fact that he never read the case papers at home enabled him to follow a case with an open mind ready to be convinced by facts and figures. There was no doubt the danger of coming to quick conclusions on first impressions, but rarely has it occurred and rarely has there been any real hardship on this score. No doubt, His Lordship never took kindly to the time-honoured practice of reading the evidence in extenso in all First Appeals. It may be due to a different conception of the functions of an appellate Court. But this has been widely felt as a grievance, a denial of opportunity to show that the High Court should reach a different conclusion from that of the lower Court.

Acting on the principle that Justice delayed is justice denied, His Lordship had during all these years strenuously worked to bring about a reduction of the arrears not only in the High Court but in

all the Courts in the Province and it must be said to his credit, he has very nearly succeeded.

His Lordship has always been conscientious in the discharge of his multifarious duties and was never swayed by considerations of personalities. Essentially courteous by nature, he was not always genial in his manner in Court. It has led to a general feeling among many that he was not as considerate and cordial as he might easily have been in his relations with the Bar.

If His Lordship was felt to be too severe in dealing with cases of professional misconduct, it was because of his passionate zeal to maintain the prestige, reputation and high character of the members of the Bar. It must be added that he was liberal in the matter of reinstatement in deserving cases.

To fill such a high office as that of the Chief Justice of a premier Province like Madras with distinction is no ordinary or easy matter and if Sir Lionel Leach has succeeded in that task, it is in a large measure due to his outstanding qualities and attainments. He can certainly look back upon the period of his office with satisfaction and pride. We wish him many happy years of comfortable and well earned rest during which we hope he will have pleasant recollections of the happy days he spent in this Province.

REFERENCE IN COURT.*

A farewell reference was made at the Madras High Court to the Honourable Sir Alfred Henry Lionel Leach, the retiring Chief Justice, by Mr. K. Rajah Ayyar, the Advocate-General. Mr. K. Rajah Aiyar, said :

We are assembled here to-day to bid 'goodbye' to your Lordship and to wish you all happiness in your retirement. It looks but a short time ago that you came into our midst; but nearly ten years have sped by; and now the time has come for us to part. During your tenure as Chief Justice of this High Court, you have endeavoured steadily and conscientiously to uphold its great traditions and maintain its great prestige. Very early you realised that the accumulated arrears resulted very often in a denial of justice and your constant and unceasing efforts in the direction of keeping down the arrears and ensuring a speedy disposal brought about very gratifying results both in the High Court and in the mofussil. You have always maintained the independence of the High Court and kept it on a high level from which it has never fallen. You have ever been jealous of the prestige of the profession and insisted on the maintenance of a high standard of character and rectitude on the part of the members thereof. Your stately personality lent grace and dignity to the Court and carried with it an atmosphere of its own. We must pay ungrudging tribute to your untiring energy and ceaseless activity while on the Bench. Your Lordship was bestowing concentrated attention hour after hour on the cases which came up before you from the time the Court assembled to the time the Court rose for the day. Straight and unbending you have been literally and metaphorically. Law was your absorbing passion; and the Law Reports bear ample testimony to the record of work done by your Lordship in laying down the law or settling debated questions by Full Bench Rulings. Your Lordship brought into the disposal of cases and administration of justice a robust common sense, a quick grasp and a penetrating insight; and these qualities enabled you to get at the correct facts and render substantial justice. The meticulous

* 31st January 1947.

accuracy in the statement of facts and details and an exactitude in the chronology of dates and events which was insisted on by your Lordship—sometimes to the point of even being disconcerting to the practitioners concerned—often tended to narrow down the questions at issue and clarify the points for determination. It is acknowledged on all hands without exception that your judicial conscience has been of the highest order, though complaints have been heard from some members of the Bar that they were not given that latitude of argument which they would like to have had and that your treatment of them has at times been brusque. But I for one, and several others know that your Lordship never decided any case without a complete understanding of the facts and that your Lordship never lacked in real courtesy to the profession and its members. In your Lordship's Court, justice was impersonal and abstract. It made no difference to your Lordship who the parties were, who appeared before you, or what the cases related to; and all fared alike in your court be he senior or junior. Distinctions of caste, creed or colour were unknown to your Lordship. Your Lordship could never brook any dishonesty on the part of a litigant and made no secret of your severe displeasure and condemnation; nor could your Lordship have patience with certain types of litigation, such as family squabbles and disputes. To sum up, your Lordship has been independent, impartial and just; and no greater tribute can ever be paid to a judge. On the whole, you have imparted a tone to the High Court and the administration of justice in the Province, which will be remembered for years to come. We know that you have been proud of the Madras Bar and we hope that you will have only pleasant recollections of us.

The Chief Justice, Sir Lionel Leach, replying said:

Although I have served for four years beyond the normal age of retirement for a High Court Judge in India and I am looking forward to freedom from the cares of office, I bid you farewell with deep regret. I have held the position of Chief Justice of this Court for nearly ten years. These years have passed by with remarkable rapidity, but as the result of the great devotion to duty of my brother Judges and the great assistance which the Madras Bar has given the Court in the administration of justice, much has been accomplished during this period. I leave you at a time when great constitutional changes are about to take place. The old order is passing and a completely new order is coming into being. When I was appointed to the office of Chief Justice of Madras, I received a letter of congratulation from that great administrator, Sir Harcourt Butler who served two terms as the Governor of Burma and one term as the Governor of the United Provinces. He knew India from the far north to Cape Comorin. In his letter to me, he said: "Madras is really one of the most advanced Provinces in India, in many ways the most advanced." My ten years in Madras have more than convinced me of the truth of these words and I am confident that the Madras Presidency will remain in the vanguard of progress and orderly government.

Proper government requires an efficient judiciary dispensing justice without fear, favour, affection or ill-will. During the discussions of constitutional matters which have taken place lately nothing has been said with regard to the High Courts or the system of appointment of High Court Judges and I do not propose to indulge in speculation. You will, however, all agree that political considerations should play no part in the appointment of Judges. If the selection continues to be made only on the basis of ability and integrity, I am convinced that all will be well. This Province can produce men in ample measure fit to take the places of the eminent Judges of the past. I have, however, heard it suggested in some quarters that the number of Judges of this Court should be reduced. Twelve months ago, the printing press was not able to keep pace with the work of the Court and this was probably the reason for the suggestion, but the position has now changed and there are plenty of cases ready for hearing. It goes without saying that the number of Judges should not be greater than the work of the Court demands; but I say with full knowledge of the position that any reduction in the number at this juncture would be very regrettable. The work of the Court is reasonably up-to-date, but

the institution of cases is on the increase. If the Court is to avoid slipping back to the bad state it was in, some few years ago, with regard to the pendency of cases, the present strength will have to be maintained. Litigants are entitled to expect their cases to be heard with reasonable promptitude. They pay high court-fees and it is beyond question that the aggregate amount is far more than sufficient to cover the total cost of the administration of civil justice. When I came to India, I was amazed at the high court-fees which litigants were called upon to pay, the position being so different in England. But accepting the principle that they should pay sufficient to defray the total cost of administering civil justice, the making of a profit out of it cannot be justified on any ground. Therefore when the question of the number of High Court Judges required for Madras is under discussion, it should never be forgotten that litigants pay more than sufficient to provide all the Judges necessary to ensure speedy hearings.

My duties as Chief Justice have been lightened immeasurably by the help which my brother Judges have given to me and I am most grateful to them. Throughout my period of office, there has not been the slightest friction anywhere. All have pulled together and the feeling has been truly fraternal.

I am also very grateful for the great assistance which I have received from the Madras Bar. As you know, it has been my practice not to read the record of a case before coming into Court and to depend on counsel to state fully the facts and the questions of law involved. I have not been disappointed. Invariably, there has been a full disclosure of the facts and the questions of law have been most ably argued. At the end of the hearing I have found in my note book all material necessary for the delivery of judgment, including a full list of the relevant authorities. I thank the Bar most sincerely for the great part it has taken in the administration of justice and for the help which it has given to me personally. There is a matter affecting the Bar which I would like to dwell upon for a moment not by way of criticism but by way of advice. When senior and junior counsel are engaged in a case, the junior is seldom allowed to take an active part in it. I fully realise that this is not the fault of the leader, but the result of the client insisting upon the leader being present throughout and doing all the work in Court. How often are adjournments asked for by a junior because his leader is engaged elsewhere? Such an application would never be made in England; if it were, it would certainly be refused and refused with very caustic comment. In England when the leader is not there, the junior always proceeds with the case. But here even in interlocutory matters, very little is left to the junior because of the attitude of his client. The remedy lies with the Bar. I consider that counsel should insist on the client leaving the conduct of the case entirely in his hands and without any undertaking to be personally present throughout. If the Bar as a whole would maintain such an attitude, juniors would be able to prove their worth far earlier than is the case at present. As things are now, a junior may never get real opportunity for showing his merits until the leader with whom he has been associated has retired and it may then be that it is too late for him to be considered for judicial preferment. This is not a healthy position and does require the serious consideration of the profession. A client is, of course, entitled to have his wishes considered but I am afraid that in Madras he is too often allowed to be a dictator with regard to the conduct of his case. I am not suggesting that there are no members of the Madras Bar who adopt the attitude which I am advocating. There are, but there should be far more of them.

I thank you, Mr. Advocate-General, for the very kind things which you have said about me. I sincerely trust that I am in some measure worthy of them. You and I have known each other for several years and no one at the Bar has rendered greater assistance to me than you have. In thanking the Bar through you, I wish to express to you personally the special thanks which are due to you from me. My years in Madras, although they have entailed strenuous work, have been most pleasant ones. I shall carry away with me very happy recollections and friendships which will never be forgotten. I thank you all once again and wish you all happiness and prosperity."